



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
|-----------------|-------------|----------------------|---------------------|

08/239,978    05/09/94    BREED    D    AT177

TYSON, K    EXAMINER

31M1/0416

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| ART UNIT | PAPER NUMBER |
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3106

DATE MAILED:

04/16/96

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Advisory Action

Application No.

08/239,978

Applicant(s)

Breed et al.

Examiner

Karin Tyson

Group Art Unit

3106



## THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☒ expires four months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on 4/1/96 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

☒ The proposed amendment(s):

- ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☒ will not be entered because:
- ☒ they raise new issues that would require further consideration and/or search. (See note below).
  - ☐ they raise the issue of new matter. (See note below).
  - ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☒ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: In claim 19 "substantial" is a new limitation requiring further search of consideration. Also, in claim 47 "trained pattern recognition means" is a new limitation which requires further consideration. Neither limitation clearly places the claims in condition for allowance. \*\*\* Continued on additional sheet.

- ☒ Applicant's response has overcome the following rejection(s):  
the rejection under 35 U.S.C. § 112, first paragraph.

- ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.
- ☐ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_
- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):  
Claims allowed: none  
Claims objected to: none  
Claims rejected: 19-29, 33-36, 47-49, and 63

- ☐ The proposed drawing correction filed on \_\_\_\_\_ ☐ has ☐ has not been approved by the Examiner.

- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☒ Other Note the attached Notice of References cited, PTO-892

KARIN TYSON  
PRIMARY EXAMINER  
ART UNIT 3106

Art Unit: 3106

ATTACHMENT TO ADVISORY ACTION

1. Applicant requests that claim 69 be added if no additional fee is due. A fee is due for an additional dependent claim when a dependent claim in excess of 20 dependent claims is presented. Applicant's amendment which was filed on October 5, 1995 canceled many claims, leaving the application with 19 claims, three of which being independent claims (19, 28 and 47). Accordingly, no additional fee is due to add claim 69. However, the claim 69 requires further search or consideration since the examiner has not previously considered the combination of elements claimed.

Claim 8 was previously canceled and, therefore, was not canceled again.

The amendment is also improper because it does not give specific instructions for each requested change. That is, it is improper to request to replace A with B at each occurrence of A. Instead, applicant must point out, by page or claim and line number where A occurs. Accordingly, no change of trained pattern recognition means to trained neural computer network means has been made.

It is noted that applicant has not supplied a publication date of the Neural Computing Handbook. The examiner has assumed that the book has been published in 1993 and has noted that applicant is not entitled to the filing date of the parent application for any claims that claim the Neural Computing,

Serial Number: 08/239,978

-3-

Art Unit: 3106

specifically the training since this was not disclosed in the earlier application.

2. This application is subject to the provisions of Public Law 103-465, effective June 8, 1995. Accordingly, since this application has been pending for at least two years as of June 8, 1995, taking into account any reference to an earlier filed application under 35 U.S.C. 120, 121 or 365(c), applicant, under 37 CFR 1.129(a), is entitled to have a first submission entered and considered on the merits if, prior to abandonment, any required extension of time, the submission and the fee set forth in 37 CFR 1.17(r) are filed prior to the filing of an appeal brief under 37 CFR 1.192. Upon the timely filing of a first submission and the appropriate fee of \$375.00 for a small entity under 37 CFR 1.17(r), the finality of the previous Office action will be withdrawn. In view of 35 U.S.C. 132, no amendment considered as a result of payment of the fee set forth in 37 CFR 1.17(r) may introduce new matter into the disclosure of the application.

If applicant has filed multiple proposed amendments which, when entered, would conflict with one another, specific instructions for entry or non-entry of each such amendment should be provided upon payment of any fee under 37 CFR 1.17(r).


Serial Number: 08/239,978

-4-

Art Unit: 3106

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin Tyson whose telephone number is (703) 308-2086.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for this group is (703) 305-7687.

  
Karin Tyson  
Primary Examiner  
Art Unit 3106